



LOIS M. SAHYOUN
Clerk of the Board

BOARD OF SUPERVISORS

44 N. SAN JOAQUIN STREET, SUITE 627
STOCKTON, CALIFORNIA 95202
TELEPHONE: 209/468-3113
FAX: 209/468-3694

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May 6, 2011

Phil Isenberg, Chairman

Council Members

P. Joseph Grindstaff, Executive Officer

By E-mail

Delta Stewardship Council

650 Capitol Mall, Fifth Floor

Sacramento, CA 95814

Comments to Delta Stewardship Council – Third Draft Delta Plan

Dear Chairman Isenberg, Council Members, and Mr. Grindstaff:

On behalf of the residents of San Joaquin County and the San Joaquin County Board of Supervisors, we would like to thank you for the opportunity to submit comments on the Delta Stewardship Council's (DSC) Third Draft Delta Plan. With nearly two-thirds of the Delta located within San Joaquin County, we remain very concerned about the protection of water quantity and quality available within the Delta. We are equally concerned about the potential negative effects that additional planning processes may have, as evidenced by the Delta Vision and the continuing Bay Delta Conservation Plan (BDCP) process on the County's communities, land use, flood protection, infrastructure, agriculture, economy, recreation, wildlife, and our way of life.

The County's comments are as follows:

1. Delta Plan vs. Delta Edict

The County, and as it appears other agencies, that rely on the Delta and its tributaries is greatly concerned with the overall planning approach of the Third Draft Delta Plan as being developed by the DSC's contract consultants. The final product of this effort should be a new comprehensive plan that has developed adequate project and program alternatives to set a new future for a sustainable Delta as described in the Delta Reform Act of 2009, and not a regulatory edict full of proposed policies, acts, and recommendations of which the DSC may have little of no true regulatory authority.

The Delta Plan should have goals, not specific processes, at least not until the other Plans and processes (such as the Delta Protection Commission's Economic Sustainability Plan, the Delta Conservancy's Strategic Plan, the Bay Delta Conservation Plan, etc), have been completed. A Delta Plan with goals can later be amended, even before the required 5-year review, to include processes which are consistent with the Delta Plan's goals and the goals and processes set forth in the other Plans and processes. Furthermore, any language in the Delta Plan dealing with "beneficiary pays" and/or "stressor pays" concepts should await completion of the legislative process on such bills as SB 34 (Simitian) and AB 576 (Dickenson).

In addition, the Delta Plan should provide more specific language regarding the Plan's goals regarding reduced reliance on the Delta for future water needs. There is presently some confusion regarding the meaning and reach of the language in Water Code Section 85201. Delta Plan articulation of the understanding of the DSC on this point would be helpful.

2. *Coequality of Goals in Conflict*

The Third Draft Delta Plan has not addressed a fundamental conflict concerning the co-equality of goals. This conflict hinges on the fact that the reality of coequality does not exist as written into the Delta Reform Act of 2009. In fact, the state of this policy is as affirmed by letter dated 18 August 2009 in which Antonio Rossman, Lecturer of Water Resources Law, Boalt Hall wrote in regard to then SB1, "the bill seeks to maintain the Blue Ribbon Task Force policy of pursuing environmental protection and supply reliability as "co-equal goals." Conforming that aspiration to both legal and ecological mandates requires refinement of the Blue Ribbon policy. The California Supreme Court's latest definition of the State's Bay-Delta responsibilities clearly provides that "water exports from the Bay-Delta ultimately must be subordinated to environmental considerations." (*In re Bay-Delta Programmatic EIR Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1168). He continued, "Stated differently, the goal of securing a reliable supply must in the end be realized by meeting the paramount needs of the environment." In the continued development of the Delta Plan centered on the co-equal goals, the Council must resolve how the Delta Plan will address this conflict of co-equal goals and also how the plan will abide by other laws established to protect the Delta such as the Delta Protection Statute (*Wat. Code* §§ 12200 et seq.), the Watershed Protection Statute (*Wat. Code* §§ 11460 et seq.) and the Area of Origin Statute (*Wat. Code* §§ 10500 et seq.).

3. *Water Rights, Area of Origin, and Regional Self-Reliance*

The Third Draft Delta Plan, Chapter 4, focuses on the ideas of improving regional self-reliance, which is a topic the County has supported in our "Better Way Approach" to improving regional water supplies. This fundamental approach has great promise as it is currently being developed under the Integrated Regional Water Management planning process supported by the Department of Water Resources (DWR) and a host of regional entities throughout the State. Unfortunately, as considered under the Draft Delta Plan no mention has been made regarding the protection and observance of the State water right priority system. A vast number of water users within the Delta and its tributaries beneficially use water pursuant to riparian, appropriative and/or overlying rights, which are among the most senior of water rights in the State, and are duly protected from export operations and more *junior* appropriative water rights. California water law is based on the priority system of State water rights. Shortages are addressed by implementation of the water right priority system. The most senior water rights are protected while junior water rights suffer. Competing demands for water in and from the Bay-Delta are properly resolved by applying the priority system, not by "balancing." If there is insufficient water in a stream system to support all appropriators, then diversions diminish starting with the most junior appropriators. (*Pleasant Valley Canal Company v. Borrer* (1998) 61 Cal.App.4th 742, 770.) The Delta Plan must recognize that shortages of water within the Bay-Delta are resolved by applying the law and not by the use of a regulatory process where in covered actions form the basis of water rights priority.

In addition, the Watershed Protection Act (*Wat. Code*, § 11460, et seq.) and the Delta Protection Act (*Wat. Code*, § 12200, et seq.) impose fundamental limitations on the State Water Project and federal Central Valley Project's ("Projects") ability to transfer "surplus" water from the Delta watershed to water-deficient areas to the south and west of the Delta. These acts contain the core protections and assurances including the Delta "common pool doctrine", which the Legislature afforded such water users when the Projects

were initially authorized that the Projects will indeed be limited to the transfer of water that is truly surplus to their needs. Situated within the Delta watershed, and with a substantial portion of its lands within the boundaries of the "legal Delta" (see Wat. Code, § 12220), the proper interpretation of these acts is of paramount importance to San Joaquin County and its many water users, both human and environmental, that depend on water from that watershed and must be integrated into any discussion or plan regarding reliable water supplies.

Furthermore, in the Draft Delta Plan, Chapter 4, the relationship by which the DSC would interact with State Water Resources Control Board (SWRCB) under Water Resources Policy (page 4) is unclear. The concept of covered actions for projects that seek to divert water either from the Delta or from its tributaries and the water rights process as administered by the SWRCB is not well defined. Does the legislation empower the DSC to make any determination with regards to water rights? Will the DSC have the authority to make a water right determination based solely on stipulations regarding a "covered action?" Will the current water rights system still be relevant when the Delta Plan is implemented? These are questions that could reflect the concerns of the most senior riparian and pre-1914 water rights holders in the County.

Future projects contemplated in the Eastern San Joaquin Region and defined by our Community's adopted Integrated Regional Water Management Plan (IRWMP) will seek to divert water from Delta tributaries in years and months when water is available in order to conjunctively manage groundwater and surface water sources as part of our effort to achieve greater regional self-sufficiency. The Delta Plan should state explicitly that tributaries outside the Delta are not considered covered actions. Diversion and beneficial use of water within the Delta and its tributaries must be a priority over exports as established in existing law defining area of origin protections that place Northern California community's needs ahead of Delta exporters in terms of water rights. The Draft Delta Plan makes no mention of honoring existing water rights or area of origin protections as part of greater regional self-reliance.

4. Water Quality Standards and Salinity Control

The enforcement of existing water quality standards in the Delta is missing from the Third Draft Delta Plan, Chapter 6. Through the Fish and Game Code, California Water Code and other laws and decisions, it would seem that both the California Department of Fish and Game and the State Board have more than adequate enforcement authority to address violations of water quality standards in the Delta and its tributaries, especially in the San Joaquin River. Water quality standards are established to protect beneficial uses including agriculture, fish and wildlife, recreation, as well as assimilative capacity for discharges. Perhaps if existing water quality standards and other codified restrictions on Central Valley Project (CVP) and State Water Project (SWP) operations were truly enforced as intended, then maybe the Delta would not be in such a crisis necessitating the reforms proposed in the Delta Plan. This issue of inconsistent enforcement continues to concern the County and should be addressed in the Delta Plan before new policies, restrictions, or alternative conveyance can be implemented.

To avoid the detrimental impacts of salinity in the Delta, the CVP and SWP were originally planned to release stored water for salinity control. California Water Code section 11207 added by Statutes of 1943 specified "Salinity control in the Sacramento-San Joaquin Delta" as one of the primary purposes of Shasta Dam. Salinity control is currently achieved by allowing unregulated river flow supplemented by releases of water from upstream reservoirs to flow into and out of the Delta in sufficient quantities to constitute a hydraulic barrier to Bay salinity. Upstream diversions to areas outside the watershed and the lack of a

drainage solution for the hundreds of thousands of acres of irrigated land and wetlands along the west side of the San Joaquin Valley are the principal causes of the poor San Joaquin River water quality. The need for a solution to drain saline water emanating from water applied to the west side of the San Joaquin Valley has long been recognized and should be incorporated into the overall Delta solution. Salinity control is a key element in protecting Delta water quality. Salinity intrusion from the Bay is a major contributor to water quality degradation adversely affecting all beneficial uses of Delta water, including fisheries. The Delta Plan, Chapter 6, must address this issue and incorporate protections for adequate Delta outflow and use.

5. State Water Project (SWP) and Central Valley Project (CVP) Operations and Impacts

The Third Draft Delta Plan, Chapter 3, states that operation of the SWP and CVP is listed as an action not covered by the Delta Plan. Regulating export operations and changes in export operations are paramount to protecting threatened and endangered species, maintaining water quality and adequate flow in the Delta. Therefore the Delta Plan must include the CVP and SWP as covered actions. In the spirit of a healthy Delta ecosystem as one of the co-equal goals, reductions in exports from current levels to sustainable levels must also be evaluated as part of the Delta Plan.

6. Covered Actions and Land-Use

The Third Draft Delta Plan, Chapter 3, describes a lengthy, complicated, and potentially expensive certification and appeal process. It will be difficult for applicants to understand and follow, and may result in the need for expensive consultants to guide applicants and their projects, both large and small, through the process. It also places a significant burden on local agencies to make "Findings" and certify covered actions.

Ultimate land-use authority in the Delta is being taken from local agencies and placed in the hands of the DSC. Appendix A, No. 15 a) and b) states that a covered action that has been the subject of an appeal shall not be implemented unless the DSC has either denied the appeal, or the local agency has decided to proceed with the action as proposed or modified, has revised the certification, addressing each of the findings made by the DSC, and no one has appealed the revised certification. Potentially an applicant could get into a never ending loop of appeals, and at some point just give up. The result could be a general discouragement for anyone to seek permits for a covered action in the Delta, which may be an actual but unstated goal of the DSC.

A more suitable approach than that discussed in Chapter 3 would be to require that General Plans of the Delta Counties and Cities include language that speaks to limit certain types of activities in the Primary Zone and the Delta. This approach has been used successfully by the Delta Protection Zone; there has not been inappropriate development within the Primary Zone in San Joaquin County.

Furthermore, the Third Draft Delta Plan (page 35, line 17), states that, "only certain activities qualify as covered actions, and the Act establishes both criteria and exclusion." Whether an activity meets the definition of "covered action" is important as it determines whether or not the activity is subject to the Delta Plan and the subsequent certification by the local agency that the activity is consistent with the Delta Plan, and whether or not the certification can ultimately be appealed to the DSC. After reviewing the discussion in Chapter 3 regarding covered actions, it appears that all discretionary and potentially all ministerial permit applications within the Secondary and Primary Zones of the Delta may be considered to be covered actions. On page 36, lines 36-38, the Delta Plan states that although CEQA exempts ministerial

projects (Public Resources Code Section 21080(b)(10) ministerial projects are in fact included in the definition of covered action. According to Policy No. 1, p. 39, lines 34-35, some type of CEQA-like environmental review will be required of ministerial projects subject to the Plan, as all potentially significant adverse environmental impacts and mitigation measures must be disclosed in order to certify consistency with the Plan. The Community Development Department will be required to certify that the covered action is consistent with the Plan prior to the applicant "initiating implementation." In order to certify the covered action, the County will be required to make detailed findings. These findings will be based on information that the applicants will be required to submit, and are specified in Policy No. 3, page 39, lines 38-41. The applicant will be required to demonstrate management and financial capacity to implement the covered action over the long term. This includes ownership, water rights, budgeting, capital improvement planning, and a financing plan.

The certification will occur at the end of the typical local permitting process. The certification is then subject to appeal by anyone, including the DSC. The appeal process may take 150 days from start to finish. Additionally, appeals that are granted by the DSC may go back to the local agency and be appealed again, taking more time.

Furthermore, the supposed limitation of the reach of the provisions regarding "covered actions" to those which have a "significant" impact on the Delta (as described in the Third Draft Delta Plan), is of little use in educating local permitting agencies and potential permit applicants regarding the coverage of the action proposed by the potential permit applicant. Without a clearer description of what is "significant," we are left to guess what the final administrative decision-maker's understanding is regarding this term. At one end of the spectrum, those governed by the Delta Plan are left to guess whether a large action or project may be deemed by the DSC to be not "significant" because the project is favored by DSC (or staff), even though by any independent, objective, rational view that action or project is indeed "significant". On the other end of the spectrum, those governed by the Delta Plan are left to guess whether a small action or project is deemed "significant" because the action or project is disfavored by the DSC (or staff), even though by any independent, objective, rational view that action or project is indeed not "significant". Dealing with this issue, caused by ambiguous, ill-defined language by saying "Trust us" does not meet reasonable standards of governance.

What is the significance of this? All discretionary and most ministerial projects, including Building Permits that are within the legally defined Delta may be classified as covered actions. This begins the process of review, documentation, certification and appeal to the DSC; an expensive, complicated and lengthy process. It subjects applicants to a second or third "bite of the apple," as not just the CEQA determination and project approval may be appealed, but the certification may be appealed just when an applicant may be ready to perfect the application approval. Certification appeals may be filed as a means to delay and ultimately stop projects.

Appendix A, paragraph 2 and page 37, lines 24-28 state that local agencies may elect to refer covered actions to the DSC early in the process for an "early consultation." The Community Development Department may decide to send all ministerial and discretionary applications within the legally defined Delta for early consultation with the DSC. By allowing the DSC to pre-screen, it will help to ensure that expensive and complicated application materials are only required of applicants whose projects, according to the DSC, are what they consider to be covered actions, and therefore subject to the Plan.

Recommendation: The Delta Plan should have some “bright line” indicators of what is, and what is not, a “covered action” (beyond pointing out what the “covered action” statutory exemptions are). Local permit applicants are numerous and they, and the County, should not have to guess at the meaning of “covered action”. It is recommended that the DSC staff be the first step in the process for certification. A potential permit seeker would submit material regarding action which could be a “covered action” to DSC staff for a preliminary conclusion as to whether the action is a “covered action”.

The potential permit seeker would then proceed to the local permitting agency and submit the same material for consideration by the local permitting agency. The local permitting agency could then make its determination regarding the permit and certification regarding “covered action”. If the potential permit seeker submits additional or other materials in support of the sought permit, the local permitting agency could send the potential permit seeker back to the DSC staff for reconsideration of its preliminary conclusion.

Failing articulation of this sort of preliminary conclusion process in the Delta Plan, the local permitting agencies, and the potential permit seekers are left to the subjective determination of DSC staff AFTER all of the local agency process has taken place, a potential waste of private and public time, effort and money.

The County sees this process imposed by the Draft Delta Plan as unfunded mandates. There should be language in the Delta Plan, which specifically recognizes that the imposition of this process is an unfunded mandate.

7. Reducing Flood Risk

The Third Draft Delta Plan, Chapter 7, offers policies and recommendations for reducing the risk from flooding within the Delta. Unfortunately much of Chapter 7 is duplicative of existing regulatory requirements and standards, and in some cases in direct contradiction to existing regulatory requirements and standards. Much work has been done since the passage of SB 5 (2007) to develop new standards for levees and floodplain management in order to reduce flood risk. This work has involved extensive collaboration between the DWR, the Central Valley Flood Protection Board (CVFPB), the U.S. Army Corps of Engineers (USACE), local flood control agencies, and engineering and geotechnical experts and professionals. This exhaustive collaborative effort will be incorporated into the Central Valley Flood Protection Plan (CVFPP) and Title 23 of California Code of Regulations. The Delta Plan should not attempt to “reinvent the wheel” regarding levee standards and floodplain management, but should instead incorporate by reference the standards and requirements of the CVFPP and Title 23.

Chapter 7 also proposes formation of a regional flood control agency for the Delta. It's important to remember that local reclamation districts and local flood control agencies know Delta levees the best. Any regional organization must be locally based. There are already many state and federal agencies with roles and responsibilities for flood control within the Delta. These layers of State and federal government overlap and are not always well defined. This can cause confusion and delay when trying to implement flood control improvements. Therefore, it is critical that the formation of any new regional flood control organization does not add another layer of oversight/review/bureaucracy. If a new regional flood control agency is to be created, State and federal agencies should delegate some of their roles and responsibilities to the new agency. Also any new flood control agency must have a sustainable and long term funding source so it can be effective in planning and implementing long term flood control and flood management solutions.

Following are more specific comments and questions on the Third Draft Delta Plan regarding flood risk and emergency response.

1. Page 37, Lines 17 through 23 - This provides examples of covered actions that are "statutorily excluded" from the Plan. Line 23 states: "routine maintenance of levees by a reclamation district (Water Code section 85057(b))." Does this include other local levee maintaining agencies as well? If not, the statute should be amended to include other Local Maintaining Agencies (LMA) or the Plan should acknowledge this.
2. Page 38, Figure 3.1 - How is significance criteria established? Can it be done by the agency making the decision/finding for the covered action similar to CEQA? Also, if an agency is unable to certify consistency with the Plan, then the agency must revise the plan, program or project to achieve consistency. If this isn't feasible, can the agency make a statement of overriding considerations, similar to that allowed by CEQA?
3. Page 39, Lines 13 and 14 - This states that a covered action must not only be found consistent with the Plan at the time of certification, but must also be found consistent when implemented. Does this mean that a finding of consistency must also be made when an action is implemented? (Are two findings required?)
4. Page 39, Lines 38 through 41 - There appears to be an attempt to parallel CEQA, for example in the definition of Covered Action (same as "project" in CEQA), yet P3 far exceeds that required by CEQA by requiring that financial capacity to implement a covered action be included in the certification. Is this appropriate?
5. Page 87, Line 25: Reservoir re-operations should be added to the list of items to reduce risk.
6. Page 87, Line 32: Delete the statement "Failure of significant parts of the Delta's flood management system will be unavoidable" as no science is provided to substantiate the statement, and Water Code section 85308(a) requires the DSC to base the Delta Plan on the best available science and the independent scientific advice of the Independent Science Board (ISB).
7. Page 88, Line 8: The USACE's Lower San Joaquin River Feasibility Study needs to be noted here along with the other important projects that are collaborations between federal, State, and local agencies to study flood management.
8. Page 88, Line 36: Title 23 and FEMA regulations already provide standards and regulations for floodplain encroachment. The Delta Plan should not attempt to duplicate these standards.
9. Page 89, Line 6: "RR P3," this policy overrides local planning authority of at least four jurisdictions within San Joaquin County. It appears that much more coordination is needed to better define these floodplains' purposes, especially since urban or urbanizing areas are included and would need accommodation.
10. Page 89, Line 14: This description of the San Joaquin River/South Delta Floodplain is internally inconsistent, and not capable of being clearly plotted on a map. It also includes parts of

three incorporated cities. It is inappropriate for the Delta Plan to attempt to define a potential floodplain or floodway without conducting the necessary hydrologic, hydraulic, geomorphic, and engineering studies. P3 should be replaced with "DWR, USACE, CVFPB, and San Joaquin County local flood control agencies should complete the Lower San Joaquin River Feasibility Study and determine the feasibility of a San Joaquin River/South Delta Floodplain that would be used as floodway to convey flood flows."

11. Page 90, Line 1: Delete the statement "...the historical performance of many levees in the Delta is poor." as no science is provided to substantiate the statement, and Water Code Section 85308(a) requires the DSC to base the Delta Plan on the best available science and the independent scientific advice of the ISB.
12. Page 90, Line 27: the phrase "...and is often used with established USACE criteria to meet certain ...requirements" should be deleted. The Code of Federal Regulations that defines FEMA 100-year Flood Protection is a comprehensive, stand-alone regulation and not dependent upon USACE certification rules.
13. Page 90, Lines 30-31: "Very few levees in the central Delta meet this standard." Define "central Delta." This appears to be another overly-broad sweeping statement. This should be substantiated with scientific statistics.
14. Page 90, Line 32: It would be more accurate if this sentence read as follows: "DWR 200-year Urban Levee Protection: This [is a] standard [that is still being developed, and] is similar to the FEMA standard..." It is incorrect to treat this standard as complete and in effect as designed when this is not the case.
15. Page 90, Line 40: This is an opinion, not a fact. This whole paragraph omits considerations of future improvements to a levee's design, and states the opinion that it is better to fit the land-use to the existing levee, leaving no option for future alterations to levee design criteria.
16. Page 90, Lines 36 through 39 - This states that levees in Stockton do not meet 200-year protection standard. What is your source for this statement? Most levees protecting Stockton are FEMA accredited. That is, they have been determined to provide at least 100-year protection with the freeboard requirements of FEMA. Not until the completion of the CVFPP will there be a document that identifies whether Central Valley levees provide 200-year protection. This document has not yet been released. Recommend that this statement be corrected.
17. Page 91, Table 7-1 is problematical because of its assumptions. The class rankings imply that there is a hierarchical relationship between all of these classifications and that is not the case (for example, a levee may provide 100-year protection while at the same time not being eligible for PL84-99 support). The Delta Plan should defer to the CVFPP and Title 23 standards.
18. Page 92, Lines 1 through 4 - This policy proposes that a covered action involving a project adjacent to the land side of the levee include adequate area (i.e. dedication of land) to allow for the possible future construction of a setback levee until such time DWR adopts criteria to define location for future setback levees. This is potentially a very onerous condition, and one that may not be necessary in many cases where existing levees are structurally adequate. Recommend that this policy be amended to include that, in the absence of a DWR adopted criteria, that a licensed

Civil Engineer can certify that additional setback is not required. In addition, the CVFPP will contain requirements for providing adequate areas adjacent to levees to allow for future modifications.

19. Page 92, Line 31 - This Policy states that State investments for levee improvements shall "Not result in an increase in the number of people at risk." This is an extremely vague statement. This needs to be better defined. As currently written, it could be interpreted that this would prevent funding for levee improvements that would allow one home or business to be built. Also this is in direct contradiction with SB5 which called for State investment to improve levees to a 200-year standard for urban areas. Improvement of levees to a 200-Year standard will reduce risk, but not eliminate it.
20. Page 92, Line 36 - "RR P6" bullet #3 - add to this list of things that need to be considered "consequences to private real property improvements."
21. Page 94 - The limitation of liability discussion needs to include local agencies' concerns, equally.
22. Page 94, Financing Problems - An in-depth analysis and audit is required to understand why DWR has not provided this function successfully. The DSC should be cautious about how it intends to add another layer of administration onto the funding process.
23. Page 95, Lines 1 through 19 - This is a recommendation for the creation of a Delta Flood Management Assessment District for the purposes of providing financing for Delta levee improvements. This is discussed elsewhere in the Plan, and is referred elsewhere as a "Regional" Flood Management Agency (See page 112, lines 10 through 13). The Plan does not discuss structure or the authority of this agency, or whether it would replace or augment current flood management agencies (i.e. reclamation districts, other local maintaining agencies, etc.). The Plan should address these issues. Also, many of these current agencies already have assessment authority. What purpose then would this agency serve?
24. Page 96 - There needs to be a more comprehensive discussion of reservoir re-operations and the obstacles to remove in order to achieve better federal, State, and local collaboration on this issue.
25. Page 111, Lines 24 through 29 (and lines 1 and 2 of subsequent page) - This recommends that the CPUC establish fees on regulated private utilities that cross the Delta, and that these fees be allocated to the State and local LMA's. Inadequate funding exists for LMA's, and additional funding such as this would provide much needed resources.
26. Page 112, Lines 10 through 13 - This again recommends the creation of a "regional flood management agency." As previously indicated, more detail should be provided on the structure and authority of this proposed agency. Also, this recommendation indicates that a total of \$110 million would be provided to this agency, \$100 million of which would be designated for "implementation." The recommendation does not describe what is to be implemented with these funds (can funding be used for flood protection improvements as outlined in the Delta Plan, or for levee maintenance functions, etc?).

27. The Delta Plan does not include data of areas that do not meet 200-year protection and what improvements would be required to achieve this level of protection for those areas. If the Delta Plan presumes that the source for this information will be the CVFPP, that document will not be adopted until July 2012, and it is currently uncertain whether sufficient information will be available in this regard until the first update of the CVFPP in 2017. Clarification of this issue should be included in the Plan.
28. Pages 93, third paragraph, revise as follows: Despite the vital importance of adequate preparation, no comprehensive, integrated, Delta-wide emergency response system exists. The California Emergency Management Agency, DWR, and several local agencies are preparing, or have prepared, individual emergency response plans for the Delta, but the development of these should be coordinated, tested, and practiced. Regional coordination systems involving all Delta response agencies should be put in place in accordance with the SB27 Task Force recommendations. Strategies being prepared as directed by SB27 will address these issues. SB27 Task Force recommendations will be the basis for the creation of this enhanced regional flood response system.
29. Page 93, first bullet under "Recommendations", revise as follows: The Department of Water Resources and local flood management agencies should implement the SB27 Task Force recommendations and participate in emergency response exercises, mass evacuation exercises, and emergency preparedness public training, notification, and outreach programs.
30. Page 93, second bullet under "Recommendations", revise as follows: As part of implementation of the SB27 Task Force recommendations, all emergency stockpiles should be made regional in nature and usable by a larger number of agencies as part of an integrated Delta stockpile system. The potential of creating stored material sites by "over- reinforcing" western delta levees should be explored.
31. Pages 93, third bullet under "Recommendations", revise as follows: State and local agencies and regulated utilities that own and/or operate infrastructure within the Delta should prepare emergency response plans to protect the infrastructure from long-term outages resulting from failures of the Delta levees. The emergency procedures should consider methods that would also protect Delta land use and ecosystem. This planning should be performed in conjunction with regional implementation of the SB27 Task Force recommendations. Presence of critical infrastructure and reference to vulnerabilities and plans to maintain the infrastructure will be referenced on flood contingency maps called for in the SB27 report.
32. Page 95, fifth bullet under "Recommendations" revise as follows: Fund staff within the Delta Protection Commission who would assist jurisdictions with emergency response authority and responsibilities under Standardized Emergency Management Systems to implement and maintain the regional response system and emergency response enhancements called for in the SB27 Task Force report and recommendations.
33. Page 95, new bullet under "Recommendations": Provide funds to maintain a separate levee emergency response fund maintained by regional flood preparedness staff that can be accessed by unified flood fight commands established in accordance with the SB 27 Task Force recommendations. Also provide funds for the maintenance of the components of the regional response system established in accordance with the SB27 Task Force report.

Thank you for your attention and consideration on this critical matter. San Joaquin County looks forward to working with you and submitting additional comments to the DSC in the future.

If you have any questions regarding this matter, please contact Tom Gau, Interim Public Works Director at (209) 468-3101.

Sincerely,



Frank L. Ruhstaller, Chairman
Board of Supervisors
San Joaquin County

Attachment

FLR:ER

- c: San Joaquin County State Delegation
 - Paul Yoder, State Advocate
 - Karen Lange, State Advocate
 - Mark Limbaugh, Federal Advocate
 - Roger Gwinn, Federal Advocate
 - Delta Counties Coalition
 - Manuel Lopez, SJC County Administrator
 - David Wooten, SJC County Counsel
 - Tom Gau, SJC Public Works Department
 - Kerry Sullivan, SJC Community Development Department
 - Scott Hudson, SJC Agricultural Commissioner
 - Ron Baldwin, SJC Office of Emergency Services

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